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April 9, 2020

Robert Burke (via email only: burker@jbltd.com)
Catherine Gorman (via email only: gormanc@jbltd.com)
JOHNSON & BELL
33 W. Monroe Street, #2700
Chicago, IL 60603

RE: Pryor v. Target
Court No.: 20 CV 28
Our File No.: 201242
Your File No.: 8378-20001

Bob/Katie:

I hope this letter finds you and your families safe and healthy! We are in receipt of your client's discovery responses and privilege log. Our responses will be forthcoming in short order. While I have not had the opportunity to review the discovery responses yet, I did look at the privilege log. Per my duty under FRCP Rule 37, would you please update/amend the log per FRCP 26(b)(5)? As to each document asserted to have a privilege, I am requesting the specific privilege asserted as well as for the specifics as to communications, notes, and/or investigations, such as: who was involved, the subject matter involved, when it occurred, where did it occur and why did it occur.

"Fed.R.Civ.P. 26(b)(5) requires that, entries in a privilege log describe the documents in a manner that allows the reader to assess the claim. The rule must be read in conjunction with long-standing case law making it clear that the party asserting a privilege has the burden of establishing all of its elements on a document by document basis, and that privileges are narrowly construed." *Surgery Ctr. at 900 N. Michigan Ave., LLC v. Am. Physicians Assurance Corp., Inc.*, 317 F.R.D. 620, 632 (N.D. Ill. 2016).

Here, the Rule 26(b)(5) requirement has not been met as the privilege log itself is insufficient because it improperly groups the documents and privileges together. There is no discernable means by which I or this Court can assess the claims or identify what privilege are being asserted over which documents. Fairness dictates here; and, Plaintiff should be entitled to probe the substance of the investigation, notes (except those of counsel) and communications to determine the sufficiency of these asserted privileges as well communications (except those with counsel). Target should not be able to blanketly cloak the contents of the log under the secrecy of privilege.

EXHIBIT

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Please let me know if you are amendable to this request. If you have any questions or comments, please contact me to discuss. Stay safe!

Sincerely,

BIZZIERI LAW OFFICES, LLC

By: /s/ Jim Bizzieri
Jim Bizzieri

JLB/jap